



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 6014-99
22 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 6 October 1998.

2. The Board, consisting of Mr. Bartlett, Mr. Taylor and Ms. Madison, reviewed Petitioner's allegations of error and injustice on 19 October 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve on 7 August 1994 for three years in the grade of GYSGT (E-7). There are no extensions of this enlistment in the record. However, the record shows that he served on extended active duty until 30 September 1998. This means that his enlistment should have been extended for at least 14 months. The Career Retirement Credit Report shows that he completed 20 years of qualifying service for reserve retirement as of 27 July 1998. There are also no discharge entries in the record, however, if his enlistment had been extended for 14 months his expiration of enlistment would have been 6 October 1998. The Board assumed that he was discharged on that date.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases when an individual is qualified for reserve retirement and there is no explanation in the record why the individual was discharged and not retired.

e. The Board is aware that the Uniform Retired Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that the record is incomplete in that there are no extensions of the 7 August 1994 enlistment in the record. However, it is clear that his enlistment must or should have been extended to cover his period of active duty, which ended on 30 September 1998. Given the circumstances, the Board concludes that the record should show that Petitioner extended his enlistment for a period of 14 months. This means that the expiration of his enlistment, as extended, would be 6 October 1998.

The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. Therefore, given the requirement of the Uniform Retirement Date Act, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of GYSGT on 1 October 1998.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that that he extended the enlistment of 7 August 1994 for a period of 14 months.

b. That the record be further corrected to show that he transferred to the Retired Reserve in the grade of GYSGT on 1 October 1998.

c. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's

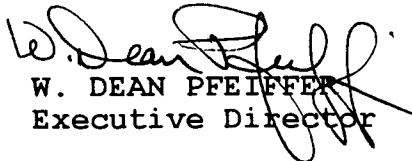
review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director